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NOTIFICATION

No. LA. 4-914/57.

Dated, Trivandrum, 11th July 1957.

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker, under Rule 73 of the Rules of Procedure and Conduct of Business in this Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

(L. A. Bill No. 15 of 1957)

The Kerala Private Forests (Assumption of Management) Bill, 1957.

A

BILL

to provide for the taking over of the management of private forests for a limited period.

Preamble.—WHEREAS it is expedient to provide for the taking over by the Government for a limited period of the management of private forests in the State of Kerala in the public interest or in order to secure proper management of such forests;

Be it enacted in the Eighth Year of the Republic of India as follows: —

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Private Forests (Assumption of Management) Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Application.*—This Act shall apply to private forests in the State of Kerala having a contiguous area exceeding 100 acres.

Explanation: —A private forest exceeding 100 acres in extent shall not cease to be such by reason only of the fact that, in a portion thereof, trees or shrubs are felled with or without the permission of the District Collector or lands are cultivated, or rocks, roads, tanks, rivers or the like exist; nor shall the area of such forest cease to be contiguous by reason only of the existence of all or any of the aforesaid circumstances.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "forest" includes waste or arable land containing trees and shrubs. pasture land and any other class of land declared by the Government to be a forest by notification in the Gazette;

(2) "owner" in relation to a forest includes a mortgagee, lessee or other person having right to possession and enjoyment of the forest;

(3) "person" includes a Hindu undivided family, a Marumakkathayam Tarward or Thavazhi or an Aliyasanthana family or branch;

(4) "prescribed" means prescribed by rules made under this Act.

4. *Assumption of management of private forests.*—(1) Whenever it appears to the Government that it is necessary to take over the management of any private forest to which this Act applies in the public interest or in order to secure the proper management of such private forest, they may publish a notification to that effect in the Gazette. Copies of the notification shall be served on the person in possession of the forest and on all such persons known or believed to be interested therein.

(2) Any person interested in such forest may within fifteen days after the issue of the notification object to the taking over of the management of the forest. Such objections shall be in writing and presented to Government in person or sent by registered post.

(3) If after considering the objections, if any, made under sub-section (2), the Government are satisfied that it is necessary to take over the management of the private forest in the public interest or in order to secure the proper management thereof, they may, by order in writing, take over the management of the forest for such period not exceeding five years as may be specified in the order, and may make such further orders as appear to them to be necessary or expedient in connection with such taking over.

5. *Power to take possession of Private forests.*—(1) Where an order has been made under Section 4, the Government may by notice in writing order the owner or the person believed to be the owner to surrender or deliver possession of the private forest to the Government or any officer authorised by them in this behalf within thirty days of the service of the notice.

(2) If any owner or person believed to be the owner refuses or fails to comply with an order under sub-section (1), the Government or any officer authorised in this behalf may take possession of the private forest and may for that purpose use such force as may be necessary.

6. *Powers of Government.*—(1) Subject to the provisions of any rules that may be made in this behalf, the Government may take such measures as they consider necessary or expedient for the purposes of securing, administering, preserving and managing any private forest, the management of which has been taken over under Section 4.

(2) Without prejudice to the generality of the provision contained in sub-section (1) such powers shall include the power—

(i) to cut and remove trees in the forest ;

(ii) to sell by auction or otherwise the timber and other forest produce ;

(iii) to enter into contracts for cutting and removing trees ;

(iv) to carry on cultivation ; and

(v) to improve the forest by planting or otherwise.

7. *Disabilities of the owner.*—(1) The owner of a private forest the management of which has been taken over by the Government under this Act shall not—

(a) transfer or otherwise dispose of the forest or any part thereof or create any charge, hypothecation, lien or other encumbrance; or

(b) enter into any agreement in respect of the private forest or in respect of the trees or the forest produce therein, without the previous approval of the Government.

(2) Any transaction in contravention of sub-section (1) shall not affect the rights of the Government under this Act.

8. *Appointment of officers.*—The Government may, by notification in the Gazette, appoint any officer or officers to manage the affairs of any forest the management of which has been taken over under section 4 and specify the powers which such officer or officers may exercise in respect of the management of the forest.

9. *Surplus of receipts to be paid to owner.*—Out of the sums received on account of the management of any private forest by the Government under this Act, the cost of management incurred by the Government including the pay and allowances of officers appointed under section 8 and of the staff and other persons employed in the course of the management or such portion

thereof as may be directed by the Government and the amount of any taxes, public charges and other dues payable to the Government in respect of the forest shall be deducted and the balance of the amount shall be paid by the Government to the owner.

10. *Keeping of accounts.*—(1) Accounts of all receipts and disbursements in respect of the management of a private forest, the management of which has been taken over by the Government, shall be maintained in such manner as may be prescribed.

(2) Such accounts shall be inspected and audited at such intervals and by such persons as may be prescribed.

11. *Release from management.*—(1) On the expiration of the period for which management of a private forest was taken over, or earlier, if the Government consider that it is no longer necessary to continue in management, the Government shall, by order, release such forest from their management.

(2) When the management of any private forest is to be released as aforesaid, the Government may after such inquiry, if any, as they may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the forest shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the management or to the successors in interest of such person.

(3) The delivery of possession of the forest to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the forest, but shall not prejudice any rights in respect of the forest which any other person may be entitled by due process of law to enforce against the person to whom possession of the forest is given.

(4) Where any person to whom possession of any forest is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause to be published in the Gazette the order passed under sub-section (1).

(5) On and from the date of publication of the order under sub-section (4), possession of the forest shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any claim in respect of the forest for any period after the said date.

(6) All agreements validly entered into by Government in the course of management shall be binding on the owner.

12. *Service of notice and orders.*—Every notice or order issued under this Act—

(a) of a general nature, shall be published in the Gazette;

(b) affecting an individual, corporation or firm, shall be served in the manner provided for service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908; and

(c) affecting an individual person (not being a corporation or firm) shall be served on such person—

(i) by delivering it or tendering it to that person; or

(ii) if it cannot be delivered or tendered, by delivering it or tendering it to any officer of such person or any adult male member of the family of such person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or crrried on business or personally worked for gain; or

(iii) by registered post.

13. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any officer of Government for anything in good faith done or intended to be done under this Act.

14. *Act to be supplemental to the Madras Preservation of Private Forests Act, 1949.*—The provisions of this Act shall be in addition to and not in derogation of the provisions of the Madras Preservation of Private Forests Act, 1949.

15. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

16. *Power to make rules.*—The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

Statement of Objects and Reasons.

It has been brought to the notice of the Government that there is excessive and indiscriminate felling of trees in the private forests of the State and that no serious efforts are being made to develop them on proper lines of forest conservancy. Thus not only is the forest wealth dwindling but soil erosion has become a serious problem. The Government therefore consider that they should have power to take over the management of private forests in the State for limited periods not exceeding five years when they deem it necessary in the public interest or for proper management. The Bill is intended to give effect to this object and applies to private forests in the State having a contiguous area exceeding 100 acres. The net income derived from any private forest taken over by the Government for management is to be paid over to the owner. On the expiry of the period of management or earlier if the Government consider that it is no longer necessary to continue the management, they shall release the forest from their management.

Financial Memorandum.

Under clause 6 of the Bill, the Government may take such measures as they consider necessary or expedient for the purpose of securing, administering, preserving and managing any private forest which has been taken over for management. Under clause 8 of the Bill, the Government may by notification in the Gazette appoint officers to manage the affairs of the aforesaid forests. But as the cost of management including the pay and allowances of the Officers appointed for the purpose is to be deducted from the sums received on account of the management of the forests and only the balance is to be paid to the owner, Government do not expect that normally they will have to incur any additional expenditure on account of this measure.

K. C. GEORGE.

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